

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

IN RE:	§	
	§	
TPI DESERT CARMEL, LLC,	§	CIVIL ACTION NO. 1:04-CV-00417-RHB
	§	CHAPTER 11
DEBTOR.	§	

REPORT AND RECOMMENDATION REGARDING SALE AND SETTLEMENT

This matter is before the Court on the Debtor's Motion to Confirm Results of Auction and Approve Sale of Property Free and Clear of Liens, Claims, and Encumbrances [Docket No. 75] (the "Sale Motion") and the oral motion made at the April 13, 2005 hearing on the Sale Motion to approve a settlement agreement between the Debtor and Burt Hoehne (the "Settlement Motion"). In the Sale Motion, the Debtor requests that the Court authorize a sale of certain property and confirm the results of a public auction held in open court at the April 13, 2005 hearing on the Sale Motion. In the Settlement Motion, the Debtor requests that the Court approve a settlement agreement to resolve all claims, causes of action, rights, and interests of Burt Hoehne and his affiliates against the Debtor, Trade Partners, Inc., all of the other entities that are the subject of the federal receivership proceeding styled *SEC v. Trade Partners, Inc.*, Civil Action No. 1:03-CV-0236 (W.D. Mich., Southern Div.) (the "Receivership Proceeding"), and the receiver, examiner, and receivership estate in the Receivership Proceeding;.

The Court presided over the hearing on April 13, 2005 on the Sale Motion and the Settlement Motion and the public auction at that same hearing. The proposed forms of order attached hereto are fully incorporated into this Report and Recommendation Regarding Sale and Settlement as if fully set forth herein. For the reasons articulated in the proposed orders attached hereto, the Court

recommends that the Sale Motion and Settlement Motion be granted. Specifically, the Court recommends that the District Court enter (a) the Order Confirming Results of Auction and Approving Sale of Property Free and Clear of Liens, Claims, and Encumbrances in the form attached hereto as Exhibit “A” and (b) the Order Approving Settlement with Burt Hoehne and His Affiliated Entities in the form attached hereto as Exhibit “B.”

OBJECTIONS to this Report and Recommendation Regarding Sale and Settlement must be filed with the Clerk of the Court within ten (10) days of the date of service of this notice. 28 U.S.C. § 636(b)(1)(C). Failure to file objections within the specified time waives the right to appeal the District Court’s order. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

Respectfully submitted,

Date: April 15, 2005

/s/ Ellen S. Carmody
ELLEN S. CARMODY
United States Magistrate Judge